

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

CHYREL RIVERA)
on behalf of herself and all others similarly)
consumers,)
Plaintiff,)
v.)
DIGITAL RECOVERY SERVICES and)
NATIONAL DEBT HOLDINGS, LLC,)
Defendants.)

CASE NO: 21 CV 3108

JUDGE:

PETITION FOR REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, 1443 and 1446, defendants Digital Recovery Services (“DRS”) and National Debt Holdings, LLC (“NDH”) by and through their counsel, hereby filed this Notice of Petition to remove the above-entitled action from the Circuit Court of the Cook County of Illinois to the United States District Court for the Northern District of Illinois, Eastern Division. Removal is based on federal question jurisdiction. Plaintiff’s complaint asserts claims and seeks relief based upon, *inter alia*, defendants’ alleged violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”). In support of this notice, defendant DRS and NDH the following:

1. Plaintiff originally filed this case in the Circuit Court of Cook County Illinois on or about May 5, 2021, under Case No. 2021CH02206. Pursuant to 28 U.S.C. § 1446(a), copies of the summons and complaint, all process, pleadings, and orders are attached hereto as **Exhibit A.**

2. Plaintiff's complaint alleges various claims purportedly arising out of, *inter alia*, attempts by DRS and/or NDH to collect a debt from plaintiff and asserts claims specifically based on alleged violation of federal law, including the FDCPA. Because plaintiff's claims arise under the laws of the United States, namely the FDCPA, removal of plaintiff's entire case is appropriate pursuant to 28 U.S.C. §§ 1441(a)-(c) and 1443.

3. Plaintiff's state law claims also purport to arise out of alleged unlawful attempts by defendants to collect a debt from plaintiff, individually and as a member of a purported class pursuant to 735 ILOS 5/2-801. This Court has supplemental jurisdiction over any such claims pursuant to 28 U.S.C. § 1337 because said claims arise out of the same operative facts as plaintiff's federal law claims and "form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1337(a).

4. Service of process of the Summons and Complaint was made upon NDH's agent on May 18, 2021, as evidenced by the Federal Express tracking sheet, attached hereto as **Exhibit B**. Plaintiff also filed her Motion in Support of Class Certification on or about May 10, 2021 and, according to the attached certificate of service, transmitted it to NDH's corporate agent and to DRS by "USPS First-Class Mail". The Certificate of Service does not state the date of mailing. Defendants reserve all of their rights and defenses concerning service of the summons and complaint and the motion. On May 18, 2021, defendant NDH received a copy of the Plaintiff's Motion for Class Certification in the United States mail. Defendants' receipt of the Motion on May 18, 2021 constituted the first time DRS or NDH, had notice of this lawsuit.

5. Defendants are timely filing this notice of removal within thirty days after receiving notice of plaintiff's lawsuit. 28 U.S.C. § 1446(b).

6. This Court is part of “the district and division embracing the place where” the original action was filed and is pending. *See*, 28 U.S.C. § 1441(a); 28 U.S.C. § 1446(a); 28 U.S.C. § 115(a)(2).

7. In accordance with 28 U.S.C. §§ 1446(b) and 1446(d), DRS and NDH will promptly serve on plaintiff’s counsel and file with the Circuit Court of Cook County, a true and correct copy of this notice of removal. Such filing will also result in electronic service of the removal papers upon plaintiff’s counsel.

8. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

9. If any question arises as to the propriety of the removal of this action, DRS and NDH requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

10. Notwithstanding this Notice of and Petition for Removal, defendants do not waive any defenses to the claims asserted in the plaintiff’s summons and complaint, nor do defendants concede that plaintiff has adequately pled any claims upon which relief may be granted, either individually, or as a member of any purported class, nor do defendants concede that plaintiff has met her burden to certify any class as stated in her motion for class certification.

WHEREFORE, defendants DRS and NDH hereby removes the entire action bearing case number 2021-CH-02206 from the Circuit Court of Cook County Illinois to this Court, the United States District Court for the Northern District of Illinois, Eastern Division for all further proceedings.

Dated: June 9, 2021

Respectfully submitted,

/s Thomas P. Needham
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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2021 a copy of the foregoing was filed electronically via the CM/ECF. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electric filing receipt. Parties may access this filing through the Court's system, In addition, a copy of the foregoing was sent via electronic mail to Stacy Bardo at stacy@bardolawpc.com and Bryan Paul Thompson at bryan.thompson@cclc-law.com

/s/ Thomas P. Needham

Thomas P. Needham, Esq.
(ARDC No. 6188722)